

IN THE SENATE OF THE UNITED STATES,

MAY 27, 1850.

Mr. TURNER, from the Committee on Patents and the Patent Office, to whom was recommitted the bill (S. 200,) to amend "An act to promote the progress of the useful arts," reported the same with the following amendments:

AMENDMENTS.

Strike out all after the enacting clause, and insert the following:

That a record of the date of the receipt of every application for issue; reissue, or extension of, or for an addition to a patent, and of the filing a disclaimer or caveat, and of the receipt and transmission of all letters, papers, and documents, relating thereto, shall be kept in the Patent Office, and all such letters, papers, and documents, so received, shall be filed and kept in said office.

SEC. 2. *And be it further enacted*, That in case of the rejection of any such application, the Commissioner of Patents shall cause to be recorded in the Patent Office particularly, and at length, all his reasons for his decision on such application; and he shall on granting any such application, cause such record to be made, (when the same is objected to by any party interested; and he shall also cause a like record to be made without objection being made thereto at the time, whenever he shall be requested so to do by a party interested, within three months from the time of such grant,) and in case of the decision of the Commissioner against any such application, or against an objection made to any such application, predicated upon any prior publication of the invention claimed, the Commissioner shall cite the name of such publication, and the page or part thereof, that he shall consider as having a bearing on the case, and distinctly specify such patent.

SEC. 3. *And be it further enacted*, That certified copies of the records, correspondence, documents, and evidence, in any case, shall be furnished to any person applying therefor, at the Patent Office, on the payment of the legal fees for the same; and such certified copies shall be evidence in all cases of such record, correspondence, statements, documents, and evidence, on file in the Patent Office; and shall also be evidence in all cases in the same manner and to the same effect as the originals would be if duly proved; and such documentary evidence so on file shall be presumed, *prima facie*, to be genuine.

SEC. 4. *And be it further enacted*, That in a reissue of a patent, the reissued patent shall include as claimed and patented only what shall appear from the petition of the original patent, or from the specification, drawings, model, or composition of matter, deposited in the Patent Office, was known

to the inventor, and appertained to the application, use, and practice, of his invention, improvement, or discovery, at the time of taking out the original patent, or shall appear by similar evidence to have belonged thereto at the time of making some addition thereto, on application at the Patent Office, prior to the reissue; and in case the claims in the reissued patent are broader than in the original one, or such additions covering what was before omitted through inadvertance or mistake, such extension of claim shall not have any retrospective operation, or affect any pending action; and all machines, implements, apparatus, and articles made or begun before such reissue, or notice of such extension of claim, may be finished, used, and sold, after such reissue, in the same manner, to all intents and purposes, as if such patent had not been reissued: *Provided*, That there shall be no such reissue after the expiration of four years from the date of the original patent.

SEC. 8. *And be it further enacted*, That on the petition of any person against whom a suit may be pending in any of the circuit or district courts of the United States for the infringement of a patent, and such security being given as the court may order for the payment of costs, proceedings on *scire facias*, according to the principles of common law, may be had in such court, to repeal and declare null and void such patent.—The petitioner for such proceedings shall set forth on oath the pendency of the case against him, the names and residences, as far as he knows or can ascertain them by reference to the Patent Office, of all parties interested in such patent, either as patentees; assignees, or acting under any license or other contract, and give such notice to those residing without such district as the court in its discretion may order and direct. All persons interested in such patent shall be admitted to defend in the suit on the terms, if any, prescribed by the court, on their application for that purpose. In case it shall appear, on trial, that the patentee had no right to a patent for the invention, art, discovery, composition of matter, design, or improvement set forth in the specification, or intended to have been patented, judgment shall be given repealing the patent, and it shall be null and void; and a certified copy of which judgment shall be forwarded by the clerk of such court to the Patent Office, and there be recorded. And the petitioner shall in such case recover costs. In case it shall appear on the trial that the patent is invalid by reason of some defect or informality, and not appear that the patentee had, as aforesaid, no right to a patent, judgment of its invalidity for such defect or informality shall be entered, and the cost to be paid as the court may in its discretion order and direct. In case no cause of invalidity of the patent shall appear, the party defending the same shall recover his costs from the petitioner.

SEC. 6. *And be it further enacted*, That any one or more of the parties shall have a right to appeal to the Supreme Court of the United States, in any suit on a patent, in which the validity or construction of the patent is in dispute; and also in any proceeding by *scire facias*, for a repeal of a patent.

SEC. 7. *And be it further enacted*, That in all applications to Congress, or to the Patent Office, for an extension of a patent, or addition to, or reissue of the same, the applicant shall give notice of such intended application for three weeks, in two daily papers printed and published in the

City of Washington, the first publication to be made at *least sixty days before said application*; and any patent *extended, added to, or reissued*, in contravention to the provisions of this section, shall be null and void.

SEC. 5. *And be it further enacted*, That any and all additions, reissues, or extension, of a patent or patents, by special legislation of Congress, which may or shall have been obtained by fraud and circumvention, either in communicating to Congress in the form of a petition or otherwise, an erroneous or false statement of facts relative thereto, of reissue or addition, or its merits for an extension, or by concealing from Congress any important fact or facts connected therewith, such extension, addition, or reissue, shall be adjudged to be fraudulent and void.

SEC. 9. *And be it further enacted*, That all rules, by-laws, and orders for regulating or governing the transactions of business in the Patent Office, shall be reduced to writing by the Commissioner in a book kept for that purpose, which shall be opened for public inspection; all such rules, by-laws, and orders, shall be general in their character, and apply alike to every case, and to all persons who have intercourse with the office.

SEC. 10. *And be it further enacted*, That the Commissioner of Patents be authorized to employ two additional clerks, at a compensation each of dollars per annum, whose duty it shall be to make the necessary drawings and specifications, and all other necessary papers for applicants for patents, or extensions, or reissues of the same, without a fee or reward therefor, whenever desired so to do by the party applicant: *Provided, however*, That all expense attending the same be defrayed by the applicant.

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